



Docket No.: 0010-1057-0

ATTORNEYS AT LAW

ASSISTANT COMMISSIONER OF PATENTS
WASHINGTON, D.C. 20231

RE: Application Serial No. 09/441,055
Applicant(s): Yoshihiro USUDA et al
Filing Date: November 16, 1999
For: METHOD FOR PRODUCING L-METHIONINE BY FERMENTATION
Group: 1652
Examiner: TUNG

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JAN 08 2002
TECH CENTER 1600/2900

SIR:

Attached hereto for filing are the following papers:

RESPONSE TO RESTRICTION REQUIREMENT

Our check in the amount of \$ ___ is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

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Group III: Claims 31-40, drawn to a method for producing methionine using a microorganism deficient in a repressor of methionine biosynthesis and has enhanced homoserine transsuccinylase activity.

Applicants have elected, with traverse, Group III for further prosecution.

In addition, the Office has required election of one of the species:

- (a) exhibits reduced intracellular S-adenosylmethionine synthetase activity;
- (b) exhibits L-threonine auxotrophy;
- (c) exhibits enhanced intracellular cystathionine γ -synthase activity and enhanced intracellular aspartokinase homoserine dehydrogenase II activity; and
- (d) has a homoserine transsuccinylase for which concerted inhibition by L-methionine and S-adenosylmethionine is desensitized.

Applicant has elected the species that has a homoserine transsuccinylase for which concerted inhibition by L-methionine and S-adenosylmethionine is desensitized for initial examination purposes only.

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

Applicant respectfully traverses the Restriction Requirement on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctness between the identified groups.

Further, MPEP §803 states as follows:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct or independent inventions.

Applicant submits that a search of all claims would not constitute a serious burden on the Office.

Applicant makes no statement regarding the patentable distinctness of the species, but note that for a restriction to be proper, there must be patentable difference between the species as claimed. MPEP §808.01(A). The Office has not provided any reasons or examples to support a conclusion that the species are indeed patentably distinct.

Accordingly, Applicants respectfully submit that the Restriction is improper, and Applicant's election of species is for examination purposes only. With respect to the elected species, Applicant respectfully submits that, should the elected species be found allowable, the Office should expand a search to the non-elected species.

Applicant submits that the application is now in condition for examination on the merits. Early notification of such is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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